

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DANNELL THOMAS \$
VS. \$ CIVIL ACTION NO. 1:04cv30
J.D. MILES \$

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Dannell Thomas, a prisoner proceeding *pro se*, filed the above-styled civil rights lawsuit against J.D. Miles and E.W. Gordon.

The court heretofore referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The defendants have filed a motion to dismiss. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion. The magistrate judge recommends the motion be granted and this action dismissed without prejudice for failure to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. The defendants' motion to dismiss is hereby **GRANTED**. A final judgment will be entered dismissing this lawsuit.

SIGNED at BEAUMONT, Texas, on this the 28 day of June, 2005.

A handwritten signature in black ink, appearing to read 'Howell Cobb', is written over a horizontal line.

HOWELL COBB
UNITED STATES DISTRICT JUDGE